

IN THE UNITED STATES

PATENT AND TRADEMARK OFFICE

APPLICANTS: Carey Nachenberg and Everett Lai

APPLICATION NO.: 10/046,496

FILING DATE: October 29, 2001 (the USPTO erroneously  
stated it to be November 29, 2001)TITLE: Temporal Access Control for Computer Virus  
Outbreaks

EXAMINER: not yet known

RECEIVED

MAY 09 2002

GROUP ART UNIT: 2153

OFFICE OF PETITIONS

ATTY. DKT. NO.: 20423-05957

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box Missing Parts, Commissioner For Patents, Washington, D.C. 20231, on the date shown below:

Dated: March 14, 2002By: Edward J. Radlo  
Edward J. Radlo, Reg. No. 26,793

BOX MISSING PARTS  
COMMISSIONER FOR PATENTS  
WASHINGTON, DC. 20231

**PETITION TO RESCIND NOTICE OF MISSING PARTS**

SIR:

Enclosed is a copy of the Notice to File Missing Parts of Nonprovisional Application mailed by the USPTO on February 28, 2002.

Said Notice alleges that:

- The signature of inventor Carey Nachenberg was missing from the Declaration mailed with the original patent application; and
- Figures 4, 5, and 7 were missing from the original patent application.

Applicants hereby petition that the Notice to File Missing Parts be rescinded, since both of the above items were in fact included with the original patent application.

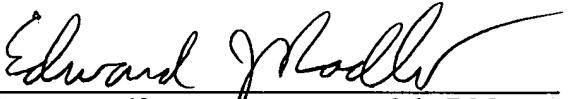
With respect to the Declaration, our law firm's file copy of the Declaration shows that the signature of inventor Nachenberg is in fact present thereon. A copy of this Declaration from our file is enclosed. Furthermore, said Declaration shows that inventor Nachenberg executed the Declaration on October 25, 2001, the same day as inventor Lai and four days before our office mailed the patent application to the United States Patent and Trademark Office using the Express Mail procedure. This is further evidence that inventor Nachenberg's signature was present on the original Declaration, because it would not have made any sense for us to have stripped inventor Nachenberg's signature from the Declaration when mailing it to the USPTO while keeping inventor Lai's signature intact. Furthermore, the New Utility Patent Application Transmittal that we mailed to the USPTO on October 29, 2001 (copy enclosed) shows that there were three pages to the "Combined Declaration & Power of Attorney" that we sent in, and that it was "Executed".

With respect to the drawings, our file contains three copies of the set of drawings. All three correctly contain all eight sheets of drawings, including the Figures 4, 5, and 7 that the USPTO alleges are missing. An extra copy of each of Figures 4, 5, and 7 is enclosed herewith. Furthermore, the New Utility Patent Application Transmittal (copy enclosed) shows that we sent in all eight sheets of drawings. Furthermore, the postcard that we sent in to the USPTO (copy enclosed) shows that we sent in all eight sheets of drawings to the USPTO.

For the above reasons, the USPTO is asked to rescind the Notice to File Missing Parts.

Respectfully submitted,

date of signature: March 14, 2002

  
Edward J. Radio, Reg. No. 26,793  
Attorney of Record

Fenwick & West LLP  
Two Palo Alto Square  
Palo Alto, CA 94306  
Tel.: (650) 858-7142

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MAY 09 2002

encl.

OFFICE OF PETITIONS

cc: C. Nachenberg (w/encl.)  
M. Noto "



PTO/SB/21 (modified)  
Approved for use through xx/xx/xx, OMB 0651-0031  
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

PTO/SB/21 (modified)

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 <b>U.S. Department of Commerce</b> <b>Patent and Trademark Office</b>		Application Number	10/046,496
<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence during pendency of filed application)</i>		Filing Date	October 29, 2001 (the USPTO erroneously stated it to be Nov. 29, 2001)
		First Named Inventor	Carey Nachenberg
		Group Art Unit Number	2153
		Examiner Name	not yet known
Total Number of Pages in This Submission	16	Attorney Docket Number	20423-05957

## **TRANSMITTAL FORM**

*(to be used for all correspondence during pendency of  
filed application)*

**REMARKS:**

SIGNATURE OF ATTORNEY OR AGENT		
Signature:		
Attorney/Reg. No.:	Edward J. Radio / Reg. No. 26,793	Dated: March 14, 2002

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence, including the enclosures identified above, is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on the date shown below. If the Express Mail Mailing Number is filled in below, then this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service pursuant to 37 CFR 1.10.

Signature:		
Typed or Printed Name:	Edward J. Radio	Dated: March 14, 2002
Express Mail Mailing Number (optional):		

0002/PTO(modified)  
Rev. 10/2001U.S. Department of Commerce  
Patent and Trademark Office**FEE TRANSMITTAL****TOTAL AMOUNT OF PAYMENT**Subtotal (1) + Subtotal (2) + Subtotal (3) = **\$ 130.00**

Complete if Known	
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METHOD OF PAYMENT		FEE CALCULATION (continued)																																																																																																																																																																					
<b>1. The Commissioner is hereby authorized to:</b> <p><input type="checkbox"/> Charge the indicated fees to the below mentioned deposit account.</p> <p><input checked="" type="checkbox"/> Charge any additional fee required under 37 CFR 1.16 - 1.21 or credit any over payments to the below mentioned deposit account. †</p> <p><input type="checkbox"/> Applicant claims small entity status See 37 CFR 1.27</p>		<b>3. ADDITIONAL FEES</b> <table border="1"> <thead> <tr> <th>Large Entity Fee Code/Fee</th> <th>Small Entity Fee Code/Fee</th> <th>Fee Description</th> <th>Fee Due</th> </tr> </thead> <tbody> <tr> <td>105/\$130</td> <td>205/\$65</td> <td>Surcharge - late filing fee or oath</td> <td></td> </tr> <tr> <td>127/\$50</td> <td>227/\$25</td> <td>Surcharge-late provisional filing fee or cover sheet</td> <td></td> </tr> <tr> <td>147/\$2,520</td> <td>147/\$2,520</td> <td>For filing a request for reexamination</td> <td></td> </tr> <tr> <td>115/\$110</td> <td>215/\$55</td> <td>Extension for response within first month†</td> <td></td> </tr> <tr> <td>116/\$400</td> <td>216/\$200</td> <td>Extension for response within second month†</td> <td></td> </tr> <tr> <td>117/\$920</td> <td>217/\$460</td> <td>Extension for response within third month†</td> <td></td> </tr> <tr> <td>118/\$1,440</td> <td>218/\$720</td> <td>Extension for response within fourth month†</td> <td></td> </tr> <tr> <td>128/\$1,960</td> <td>228/\$980</td> <td>Extension for response within fifth month†</td> <td></td> </tr> <tr> <td>119/\$320</td> <td>219/\$160</td> <td>Notice of Appeal</td> <td></td> </tr> <tr> <td>141/\$1,280</td> <td>241/\$640</td> <td>Petition to revive unintentionally abandoned application</td> <td></td> </tr> <tr> <td>142/\$1,280</td> <td>242/\$640</td> <td>Utility Issue Fee (Or Reissue)</td> <td></td> </tr> <tr> <td>143/\$460</td> <td>243/\$230</td> <td>Design Issue Fee</td> <td></td> </tr> <tr> <td>122/\$130</td> <td>122/\$130</td> <td>Petitions to the Commissioner</td> <td>130</td> </tr> <tr> <td>126/\$180</td> <td>126/\$180</td> <td>Submission of Information Disclosure Statement</td> <td></td> </tr> <tr> <td>179/\$740</td> <td>279/\$370</td> <td>Request for Continued Examination (RCE)</td> <td></td> </tr> <tr> <td>581/\$40</td> <td>581/\$40</td> <td>Recording each patent assignment per property (times number of properties)</td> <td></td> </tr> <tr> <td>146/\$740</td> <td>246/\$370</td> <td>Filing a submission after final rejection (37 CFR 1.129(a))</td> <td></td> </tr> <tr> <td>149/\$740</td> <td>249/\$370</td> <td>For each additional invention to be examined (37 CFR 1.129(b))</td> <td></td> </tr> <tr> <td colspan="2" style="text-align: right;"><b>SUBTOTAL (1) (\$)</b></td> <td colspan="2" style="text-align: right;"><b>SUBTOTAL (3) \$ 130.00</b></td> <td></td> </tr> <tr> <td colspan="2"> <b>2. 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† Request for Extension of Time per 37 CFR 1.136 (a)(3) made hereby



**UNITED STATES PATENT AND TRADEMARK OFFICE**

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/046,496	11/29/2001	Carey Nachenberg	20423-05957

00758  
FENWICK & WEST LLP  
TWO PALO ALTO SQUARE  
PALO ALTO, CA 94306



*Oct. 29, 2001*

**CONFIRMATION NO. 3384**

**FORMALITIES LETTER**



'OC000000007554710'

Date Mailed: 02/28/2002

**NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION**

**FILED UNDER 37 CFR 1.53(b)**

***Filing Date Granted***

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The signature of the following inventor(s) is missing from the oath or declaration:  
*Carey Nachenberg*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 130.**

The following item(s) appear to have been **omitted** from the application:

- Figure(s) **4,5 and 7** described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit must be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h)) requesting the later filing date must be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) OR (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of

03/27/2002 BNGUYEN1 00000076 10046496

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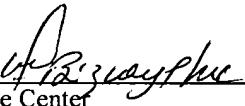
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deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

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PART 2 - COPY TO BE RETURNED WITH RESPONSE

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MAR 25 2002

PTO/SB/05 (08-00) (modified)

Approved for use through 9/30/2001, OMB 0651-0032

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

**NEW UTILITY  
PATENT APPLICATION  
TRANSMITTAL**

(only for new nonprovisional applications under  
37 CFR 1.53(b))

Attorney Docket Number

20423-05957

First Named Inventor

Carey Nachenberg

Title

Temporal Access Control For  
Computer Virus Outbreaks

Express Mail Label No.

EL566298875US

APPLICATION ELEMENTS		ACCOMPANYING APPLICATION PARTS	
1. <input checked="" type="checkbox"/> Fee Transmittal Form (in duplicate)		7. <input checked="" type="checkbox"/> Assignment Papers (cover sheet & document(s))	
2. <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		8. <input type="checkbox"/> Certified Copy of Priority Document(s) ( <i>if foreign priority is claimed</i> )	
3. <input checked="" type="checkbox"/> Specification	Total Pages 44	9. <input type="checkbox"/> Power of Attorney or Authorization of Agent	
(preferred arrangement set forth below)		10. <input type="checkbox"/> 37 CFR 3.73(b) Statement	
<input type="checkbox"/> Descriptive Title of the Invention <input type="checkbox"/> Cross Reference(s) to Related Case(s) <input type="checkbox"/> Statement Regarding Fed sponsored R & D <input type="checkbox"/> Background of the Invention <input type="checkbox"/> Brief Summary of the Invention <input type="checkbox"/> Brief Description of the Drawing(s) <input type="checkbox"/> Detailed Description <input type="checkbox"/> Claim or Claims <input type="checkbox"/> Abstract of the Disclosure		11. <input type="checkbox"/> Preliminary Amendment	
4. <input checked="" type="checkbox"/> Drawing(s) (35 U.S.C. 113)	Total Sheets 8	12. <input type="checkbox"/> Information Disclosure Statement & PTO-1449	<input type="checkbox"/> Copies of IDS Citation(s)
5. Oath or Declaration	a. <input checked="" type="checkbox"/> Combined Declaration & Power of Attorney	13. <input checked="" type="checkbox"/> Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent	
	<input checked="" type="checkbox"/> Executed (original or copy)	14. <input checked="" type="checkbox"/> Return Postcard	
b. <input type="checkbox"/> Copy from a prior application (37 CFR 1.63(d)) <i>(for continuation/divisional with Box 18 completed)</i>	i. <input type="checkbox"/> DELETION OF INVENTOR(S)  Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).	15. <input checked="" type="checkbox"/> Limited Recognition Under 37 CFR §10.9(b)	
6. <input type="checkbox"/> Application Data Sheet. See 37 CFR 1.76		16. <input type="checkbox"/>	
		17. <input type="checkbox"/>	
ADDRESS TO: Box Patent Application Commissioner for Patents Washington, D.C. 20231			

18. If a CONTINUING APPLICATION, check appropriate box and supply the requisite information below and in a preliminary amendment or in an Application Data Sheet under 37 CFR 1.76:

Continuation  Divisional  Continuation-in-part (CIP) of prior application No: \_\_\_\_\_ / \_\_\_\_\_

Prior application information: Examiner: \_\_\_\_\_ Group/Art Unit: \_\_\_\_\_

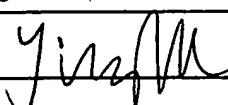
For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuing or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

**19. CORRESPONDENCE ADDRESS**

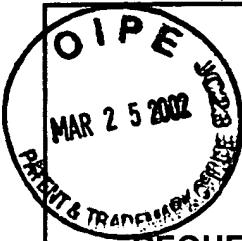


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Signature		Date	October 29, 2001

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**REQUEST TO RESCIND PREVIOUS  
NONPUBLICATION REQUEST  
35 U.S.C. 122(b)(2)(B)(ii)**

**RECEIVED**  
MAR 29 2002  
Technology Center 2600

Application Number	10/046,496
Filing Date	October 29, 2001 (the USPTO erroneously stated it to be Nov. 29, 2001)
First Named Inventor	Carey Nachenberg
Title	Temporal Access Control For Computer Virus Outbreaks
Atty Docket Number	20423-05957
Group Art Unit	2153
Examiner	not yet known

I hereby **rescind** the previous request that the above-identified application not be published under 35 U.S.C. 122(b).

March 13, 2002

Date

**RECEIVED**

MAR 29 2002

Technology Center 2600

*Edward J. Radlo*

Signature

Edward J. Radlo, Reg. No. 26,793

Typed or printed name/Registration Number

This request must be signed in compliance with 37 CFR 1.33(b).

Note: Filing this rescission of a previous nonpublication is considered the notice of a subsequent foreign or international filing required by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) if this rescission is filed no later than forty-five days (45) days after the date of filing such foreign or international application. See 37 CFR 1.137(f) if a notice of subsequent foreign or international filing required by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is not filed within forty-five days (45) days after the date of filing of the foreign or international application.

**CERTIFICATE OF MAILING OR TRANSMISSION**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner For Patents, Box PG Pub, Washington, DC 20231, or facsimile transmitted to the U.S. Patent and Trademark Office on:

Name (Print/Type): Edward J. Radlo

Signature

*Edward J. Radlo*

Date

March 13, 2002

Burden Hour Statement: This collection of information is required by 37 CFR 1.213(b). The information is used by the public to rescind a previously filed request that an application not be published under 35 U.S.C. 122(b) (and the PTO to process that rescission). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

cc: M. Noto  
C. Nachenberg

Date Mailed: October 29, 2001 | Atty/Sec: JH:lm | Filing Date: Herewith

Application No.: Docket No.: 20423-05957

Applicants: Carey Nachenberg and Everett Lai

Title: Temporal Access Control For Computer Virus Outbreaks

Please imprint Patent Office "date stamp" hereon to indicate receipt and return card to addressee.

<input checked="" type="checkbox"/> 44 pages of Specification, Claims & Abstract	<input checked="" type="checkbox"/> Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i).
<input checked="" type="checkbox"/> 8 sheets of formal drawings	<input type="checkbox"/> Response to Notice Of Missing Parts
<input type="checkbox"/> Provisional Application Cover Sheet	<input type="checkbox"/> Request to Correct Filing Receipt
<input checked="" type="checkbox"/> New Utility Application Transmittal	<input type="checkbox"/> Request for Correction of Recorded Assignment
<input type="checkbox"/> Transmittal	<input type="checkbox"/> IDS, PTO-1449, and cited references
<input checked="" type="checkbox"/> Fee Transmittal (In duplicate)	<input type="checkbox"/> Issue Fee Transmittal
<input checked="" type="checkbox"/> Combined Declaration & Power of Attorney	<input type="checkbox"/> Letter to Chief Draftsperson
<input checked="" type="checkbox"/> Assignment & Recordation Cover Sheet	<input type="checkbox"/> Formal Drawings: ___ sheets
<input type="checkbox"/> Power of Attorney	<input type="checkbox"/> Request for Certificate of Correction
<input type="checkbox"/> CPA Request Transmittal	<input checked="" type="checkbox"/> Limited Recognition Under CFR 10.9(b)
<input type="checkbox"/> Application Data Sheet	<input checked="" type="checkbox"/> Express Mail No. EL566298875US
<input checked="" type="checkbox"/> Check in the amount of \$ 1,518.00	
<input type="checkbox"/> Amendment/Response	

Other \_\_\_\_\_

20423/05957/DOCS/1219421.1